FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4611 OF 2005
WITH
CRIMINAL APPEAL NO. OF 2006

Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.S.R.Shinde, APP. for the State.
Mr.D.G. Bagwe for the Respondent.

CORAM : R.S. MOHITE,J.
DATED : 5/4/2006.

P.C.

1. Heard both sides.

2. This is an application for condonation of delay. The delay is of 152 days. The appeal is against the acquittal under Section 304A and 279 of the I.P.C. Perused the application. For the reasons which are mentioned in the application and which are accepted, application is allowed and delay is condoned.

CRI. APPEAL NO. OF 2006

1. Heard both sides.

2. This is an appeal filed by the State against the acquittal of the respondent for an offence under Section 279 and 304A of the I.P.C. On perusal of the judgment and order, it is seen that the acquittal is based upon cogent and acceptable reasons. The complaint relating to the accident wherein one Bajrang Birajdar lost his life was lodged by the nephew of the deceased by name Dilip Birajdar. However, admittedly he was not the eye witness and claimed to have received information from another eye witness Mr. Kamble. This Kamble was not examined by the prosecution. The sole eye witness P.W.No.3 Bipin Patole was pillion rider on a two wheeler and he was sitting behind one Rajan Thorat who was driving the said vehicle. Mr. Thorat would have been best witness in whose presence accident had occured. Bipin Patole stated in his evidence that Maruti car of the accused over took him in right side in high speed and dashed against the scooter. He

does not state that vehicle was driven by the accused on the wrong side of the road However, he does not state about the other details as to how the accident occured. In his cross examination he admitted that he was not able to say what was the speed of the vehicle. He admitted that he saw the accused while changing the tyre of the vehicle. The accident could thus have taken place due to bursting of the tyre, particularly as the Maruti vehicle of the accused further went ahead and dashed the wall. There is no panchanama made in respect of vehicles. In the circumstances, the view taken by the trial court is a possible view and hence, leave refused. Consequently the appeal to stand dismissed.

(R. S. MOHITE, J.)